

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALVARO ARCINIEGA,

Defendant.

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8:07CR137

ORDER

This matter is before the court on the defendant's renewed motion [26] for the issuance of a Subpoena Duces Tecum. Pursuant to NECrimR 17.2(b)(2), the magistrate judge "shall make a preliminary determination of whether the material sought is probably relevant and probably admissible." Considering the government's timely response [30], the court finds that the material sought is probably not relevant or admissible. Accordingly,

IT IS ORDERED that defendant's renewed motion [26] for the issuance of a Subpoena Duces Tecum is denied.

Pursuant to NECrimR 57.2, a party may appeal this order by filing a "Statement of Appeal of Magistrate Judge's Order" within ten (10) business days after being served with the order. The party shall specifically state the order or portion thereof appealed from and the basis of the appeal. The appealing party shall file contemporaneously with the statement of appeal a brief setting forth the party's arguments that the magistrate judge's order is clearly erroneous or contrary to law. **The filing of a statement of appeal does not automatically stay the magistrate judge's order pending appeal.** See NECrimR 57.2(d).

DATED July 20, 2007.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**